IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.R.No.2077 of 2006
Date of decision : 22.9.2006.

Om Parkash & Ors.

.....Petitioners.

Versus

Pawan Kumar & Ors.

.....Respondents.

CORAM : HON'BLE MR. JUSTICE VINOD K. SHARMA

Present : Mr. J.P.Sharma, Advocate
for the petitioners.

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VINOD K. SHARMA,J.(ORAL)

The present revision petition has been filed against the order dated 3.10.2005 passed by the Appellate Authority, Narnaul rejecting the application moved by the petitioners for fixation of fair rent.

The learned Rent Controller allowed the application and held that the earlier petition was pending for a period of five years and after the expiry of period of five years, the second application of fixation of fair rent is also maintainable.

The learned Appellate Authority reversed the findings by holding that the second application can be filed only after expiry of five years of assessment of fair rent. Section 5 of the Haryana Urban (Control of Rent & Eviction) Act, 1973 reads as under :

"(1) When the fair rent of a building or rented land has been fixed under Section 4, no further increase or decrease in such

fair rent shall be permissible for a period of five years:

Provided that an increase may be allowed in cases where any addition, improvement or alteration has been carried out at the expense of the landlord, and in the building or rented land which is in occupation of the tenant then at the request of the tenant :

Provided further that the decrease may be allowed in cases where there is a decrease or diminution in the accommodation or amenities provided.

(2) Any dispute between the landlord and tenant in regard to any increase or decrease under this section shall be decided by the Controller."

The reading of this section is very clear that second application can only be made after five years of fixation of fair rent.

There is no illegality or error in the order passed by the learned Rent Controller, which may call for interference by this Court under Article 227 of the Constitution of India.

Dismissed.

September 22,2006 **(VINOD K. SHARMA)**
'sp' **JUDGE**